

Eisen 12/29/82

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

**FILE:** B-209781

**DATE:** December 2, 1982

**MATTER OF:** Innocept, Inc.

**DIGEST:**

Complaint regarding the award of a cooperative agreement will not be considered where complainant has not made some showing that contract rather than cooperative agreement should have been used or that conflict of interest was involved.

Innocept, Inc. complains of the award of a cooperative agreement for the operation of Rural Assistance Program Project No. 06-60-82023-01 to the National Council of LaRaza by the Minority Business Development Agency (MBDA), Department of Commerce. We dismiss the complaint.

Innocept contends that MBDA evaluated applicants in an unfair and discriminatory manner and therefore failed to abide by the method set forth in the agency's grant administration manual for selecting the recipients of a cooperative agreement. It further contends that the agency violated its manual by not providing notice of award to all applicants at the same time.

We consider complaints from prospective contractors concerning the award of contracts by grantees under Federal grants in order to foster compliance with grant terms and statutory and agency regulations. GAO Public Notice, 40 Fed. Reg. 42406 (1975). However, as the Public Notice indicates, it is not our intention to interfere with the functions and responsibilities of grantor agencies in the actual award of grants. While the Federal assistance instrument in this case is a cooperative agreement rather than a grant, for the purposes of our review cooperative agreements and grants are treated alike. Del Manufacturing Company, B-200048, May 20, 1981, 81-1 CPD 390.

In either case, we consider the propriety of an award of a grant or cooperative agreement only where there is some showing that the agency is using that type of assistance instrument in a situation where a contract is required, or that a conflict of interest exists. Civic Action Institute, B-206272, September 24, 1982, 61 Comp. Gen. \_\_\_\_\_, 82-2 CPD 270, affirmed November 2, 1982, 82-2 CPD \_\_\_\_\_; Renewable Energy, Inc., B-203149, June 5, 1981, 81-1 CPD 451. Innocept has not alleged that a cooperative agreement was not the appropriate instrument for use here; neither has it alleged any conflict of interest in the award. Accordingly, the complaint does not fall within the exceptions to our usual policy of declining to review such awards.

The complaint is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel